



\$~60

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 18th August, 2025

+ **W.P.(C) 5712/2025 & CM APPL. 26041/2025**

BENITO OPERATIONS AND TECHNOLOGIES PVT.
LTD.Petitioner

Through: Mr. Bharat Bhushan, Adv.

versus

DEPUTY EXCISE AND TAXATION COMMISSIONER ST
GURGAON NORTHRespondent

Through: Ms. Monica Benjamin, SSC, CBIC
with Ms. Nancy Jain, Adv.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE SHAIL JAIN

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.
2. The present petition has been filed by the Petitioner- Benito Operations & Technologies Pvt. Ltd. under Article 226 of the Constitution of India challenging the order dated 6th March, 2025 as also the order dated 18th April, 2025 (*hereinafter, the 'impugned orders'*), issued by the Deputy Excise & Taxation Commissioner (State Tax) Gurgaon North.
3. The Petitioner herein is a company registered in Delhi, bearing GST Registration Number: 07AAMCB8784B1ZE. The Petitioner company has filed the present petition challenging the impugned orders wherein the bank account of the Petitioner being Account No. 53105135385 maintained at the



Standard Chartered Bank, DLF Building No. 7A, Gurgaon and Account No. 50200099256239 at HDFC Bank, Manesar, Gurgaon are sought to be attached.

4. A brief background of the matter is that an investigation was commenced against one M/s Wings Operations and Technology India Pvt. Limited which was promoted by two Directors, Ms. Kiran Gupta and Mr. Aashish Deep Bansal. The said company M/s Wings Operations and Technology India Pvt. Limited was investigated by the Goods & Services Tax, Excise & Taxation Department, Government of Haryana, and an adjudication order dated 2nd April, 2025 was passed against the said company. The extract of the said order reads as under:

“CONCLUSION AND ORDER

Based on the foregoing:

The Noticee availed ITC of Rs. 1,33,20,000/- without actual receipt of services, violating Section 16. Refunds of Rs. 1,33,20,000/- were erroneously claimed, necessitating recovery under Section 74. Suppression with intent to evade tax is established, justifying Section 74. Interest and penalty are warranted under Sections 50 and 74.

ORDER

Under Section 74(9) of the CGST/HGST Act, 2017, I confirm the demand as follows:

FY 2022-23:

	Tax	Interest	Penalty
IGST	3870000	1708101	3870000

FY 2023-24:



	Tax	Interest	Penalty
IGST	9450000	2469945	9450000
Plus, interest until payment			

5. The above adjudication order dated 2nd April, 2025 order has been challenged in appeal by M/s. Wings Operations and Technology India Pvt. Limited under Section 107 of the Central Goods and Service Tax (CGST) Act, 2017 read with Rule 108 of the CGST Rules, 2017. The said appeal has been filed before the Appellate Authority, Gurgaon, on 15th April, 2025.
6. The details of the filing of the said appeal have been placed on record in the present petition as "*Annexure P-8*". In terms of the same, the mandatory pre-deposit under Section 107 of the CGST Act, 2017, is stated to have been made by M/s Wings Operations and Technology India Pvt. Limited.
7. Despite this being the position, the grievance of the Petitioner herein is that the impugned orders have been passed by the Deputy Excise & Taxation Commissioner (State Tax) Gurgaon North, dated 6th March, 2025 and 18th April, 2025, attaching the bank accounts of the Petitioner *i.e.*, Benito Operations & Technologies Pvt. Ltd.
8. On the last date of hearing, *i.e.*, 1st May, 2025 it was submitted by Id. Counsel for the Petitioner that once an appeal has been filed along with mandatory pre-deposit in terms of Section 107(6) of the CGST Act, 2017, the impugned order is automatically stayed under Section 107(7) of the Act.
9. On 1st May, 2025 the Court after considering the matter, the Court made the following observations:

"10. The Court has considered the matter. A perusal



of the adjudication order dated 2nd April, 2025 would show that the allegation of the Goods & Services Tax, Excise & Taxation Department, Government of Haryana is that the Petitioner's company has been incorporated for the purposes of avoiding the payment of tax. The relevant observations are set below:

“In addition to above in the light of following observations 1. The taxpayer deliberately ignored a summons issued under Section 70 and didn't respond to a tax payment notice in Form DRC-01 A. They also failed to reply to a Show Cause Notice in DRC-01. Only after their bank account was frozen under Section 83 of the HGST Act, 2017, did they participate in the proceedings and submit a response. To avoid paying taxes owed to the Haryana state and central government, the taxpayer registered a new company called M/s Benito Operations & Technologies Pvt. Ltd. (GSTIN: 07AAMCB8784B1ZE) under the SGST Act, 2017, and CGST Act, 2017, effective from October 11, 2024. This new registration happened after an inquiry began against their original company, M/s Wing Operations & Technologies India Pvt. Ltd., suggesting it was a move to dodge the tax demand issued to the original firm in DRC- 01.

2. Moreover, the directors and shareholder of M/s Wing Operations & Technologies India Pvt. Ltd. and M/s Benito Operations & Technologies Pvt. Ltd. GSTIN: 07AAMCB8784B1ZE are same persons namely Mrs. KIRAN GUPTA & Mr. ASHISH DEEP BANSAL and section 89 of HGST Act, 2017 & CGST Act, 2017 provide for the liability of director of private company.

3. The modus of operandi of both the taxpayers is similar. It is also observed that most of the suppliers & recipients of both the said taxpayers are same. At the same time, M/s Shyam Avtar



(GSTIN: 07AACCR5195E2ZA) is common supplier to the abovementioned taxpayers.”

11. It appears that under these circumstances, the impugned orders attaching bank accounts of the Petitioner company have been issued. However, it is evident that parallel to the issuance of the impugned orders, M/s Wings Operations and Technology India Pvt. Limited has also filed an appeal under Section 107 of the CGST Act, 2017, along with the mandatory pre-deposit which may not have been in the knowledge of the Goods & Services Tax, Excise & Taxation Department, Government of Haryana.

12. The question that also arises for consideration of this Court is whether any attachment in terms of Section 122(1 A) of the CGST Act, 2017 can be carried out under Section 83 of the CGST Act, 2017, once an appeal has been filed along with the mandatory pre-deposit.

13. This Court is of the opinion that all these issues require consideration.

14. Ld. Counsel for the Petitioner also submits that this Court has territorial jurisdiction in the present case in view of the fact that the Petitioner Company is registered in Delhi, having bank accounts in Gurgaon.

15. The Petitioner further relies upon the decision of the Calcutta High Court dated 21st December, 2023, in *Arramva Corporation Vs. Additional Director General* [WPA No. 19463 of 2023] wherein it was held as follows:

“Considering the submission of the parties and relevant provisions of law under CGST Act and Rules, 2017, relevant circulars and notifications and the judgments cited by the parties I am of the considered view that so far as objection of the respondents with regard to maintainability of the writ petition before this Court on the ground of lack of territorial jurisdiction is concerned, is



not sustainable since cause of action is a bundle of fact and in the facts and circumstances of the present case I am of the considered view that part of cause of action arose within the territorial jurisdiction of this Court since petitioner's bank account in Kolkata was attached though may it be by an authority in Guwahati and in view of the fact that petitioner is a registered person in Kolkata and as such writ petition before this Court against the impugned order passed by the authority at Guwahati is maintainable."

16. Issue Notice. Ms. Monika Benjamin, Senior Standing Counsel who generally appears for the Central GST Department is requested to contact the Respondent- Deputy Excise & Taxation Commissioner (ST) Gurgaon North and inform them of the order passed by this Court today.

17. In the meantime, the impugned orders dated 6th March, 2025 and 18th April, 2025, attaching the bank accounts of the Petitioner shall remain stayed. The concerned banks shall accordingly give effect to the order passed by this Court upon a copy of the order being produced."

10. Ld. Counsel for the Respondent has reverted with instructions and submits that in view of the fact that the appeal has been filed, the Department does not press for any attachment of the bank accounts.

11. In view thereof, the orders of provisional attachment of bank accounts would not sustain and are, accordingly, set aside. The Petitioner is free to operate its following bank accounts:

- i. Current Account No.53105135385, Standard Chartered Bank, DLF Building No. 7A, Branch Gurgaon, Haryana.



ii. Current Account No.50200099256239, HDFC Bank, Manesar, Gurgaon, Haryana.

12. The email dated 18th August, 2025 handed over by Id. Counsel for the Respondent is taken on record.

13. A copy of this order be given to the concerned banks who shall give effect to the same without any further communication to the Department.

14. The writ petition along with pending application(s), if any, is disposed of.

**PRATHIBA M. SINGH
JUDGE**

**SHAIL JAIN
JUDGE**

AUGUST 18, 2025
kk/rks